

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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ANNE POPE et al,

Plaintiff,

-against-

: No. 11-cv-0736 (LEK) (CFH)

ALBANY COUNTY, et al.,

Defendant.

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**DECLARATION OF MITCHELL A. KARLAN IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Mitchell A. Karlan, an attorney admitted to practice before this Court, declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel to Plaintiffs. I make this declaration in support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment.

2. Attached as Exhibit 1 hereto is a true and correct copy of the Consent Judgment and Decree in *NAACP v. Albany Cnty.*, No. 91-CV-1288 (N.D.N.Y. Nov. 13, 1991), Dkt. No. 1-2.

3. Attached as Exhibit 2 hereto is a true and correct copy of the Complaint in *Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany*, No. 03-CV-502 (N.D.N.Y. Apr. 22, 2003).

4. Attached as Exhibit 3 hereto is a true and correct copy of the Declaration of William S. Cooper, dated April 30, 2003, provided in *Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany*, No. 03-CV-502 (N.D.N.Y. Apr. 22, 2003).

5. Attached as Exhibit 4 hereto is a true and correct copy of the NAACP's proposed remedial plan for the Albany County Legislature's redistricting plan in 1992.

6. Attached as Exhibit 5 hereto is a true and correct copy of the Memorandum-Decision & Order in *Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany*, No. 03-CV-502 (N.D.N.Y. Oct. 20, 2003).

7. Attached as Exhibit 6 hereto is a true and correct copy of Secretary Thomas Scarff's notes regarding select 2011 Redistricting Committee public hearings.

8. Attached as Exhibit 7 hereto is a true and correct copy of the Declaration of Anne Pope, dated July 14, 2011, Dkt. No. 14.

9. Attached as Exhibit 8 hereto is a true and correct copy of the Declaration of Lucille McKnight, excluding exhibits, dated July 14, 2011, Dkt. No. 20.

10. Attached as Exhibit 9 hereto is a true and correct copy of the Declaration of Wanda Willingham, excluding exhibits, dated July 15, 2011, Dkt. No. 26.

11. Attached as Exhibit 10 hereto is a true and correct copy of a transcript of the Albany County Executive Public Hearing, which took place on May 31, 2011.

12. Attached as Exhibit 11 hereto are true and correct excerpts from the deposition of Thomas Scarff, which was taken on April 12, 2012.

13. Attached as Exhibit 12 hereto are true and correct excerpts from the deposition of Geraldine Bell, which was taken on February 1, 2012.

14. Attached as Exhibit 13 hereto are true and correct excerpts from the deposition of Janis Gonzalez, which was taken on May 17, 2012.

15. Attached as Exhibit 14 hereto are true and correct excerpts from the deposition of Anne Pope, which was taken on May 3, 2012.

16. Attached as Exhibit 15 hereto is a true and correct copy of the Declaration of Aaron Mair, excluding exhibits, dated July 15, 2011, Dkt. No. 28.

17. Attached as Exhibit 16 hereto is a true and correct copy of the blog post Albany Citizen One, "Chasing Down Albany County Redistricting," dated May 15, 2011.

18. Attached as Exhibit 17 hereto is a true and correct copy of an email from Tom Nardacci to John E. Merrill, dated May 5, 2011, with Bates numbering Emails000150–53.

19. Attached as Exhibit 18 hereto is a true and correct excerpt from the Transcript of Public Hearing Regarding Albany County Legislative Redistricting, which took place on May 9, 2011, entered as Plaintiffs' Exhibit G at the preliminary injunction hearing, Dkt. No. 86-4.

20. Attached as Exhibit 19 hereto are true and correct excerpts from the deposition of Lucille McKnight, which was taken on March 22, 2012.

21. Attached as Exhibit 20 hereto is a true and correct copy of a transcript of the Albany County Legislature's Public Hearing on Local Law C, which took place May 17, 2011.

22. Attached as Exhibit 21 hereto are true and correct excerpts from the deposition of John E. Merrill, which was taken on April 25, 2012.

23. Attached as Exhibit 22 hereto are true and correct excerpts from the deposition of Carolyn McLaughlin, which was taken on March 23, 2012.

24. Attached as Exhibit 23 hereto is a true and correct copy of the Supplemental Declaration of William S. Cooper, dated December 20, 2011.

25. Attached as Exhibit 24 hereto is a true and correct copy of the Declaration of William S. Cooper, dated April 29, 2013.

26. Attached as Exhibit 25 hereto is a true and correct copy of the Supplemental Expert Report of Dr. Baodong (Paul) Liu, dated December 20, 2011.

27. Attached as Exhibit 26 hereto are true and correct excerpts from the deposition of Dr. Baodong Liu, which was taken on April 20, 2012.

28. Attached as Exhibit 27 hereto are true and correct excerpts from the deposition of Ronald Keith Gaddie, which was taken on March 4, 2013.

29. Attached as Exhibit 28 hereto are true and correct excerpts from the deposition of Ronald Keith Gaddie, which was taken on April 20, 2012.

30. Attached as Exhibit 29 hereto is a true and correct copy of the Rebuttal Report of William S. Cooper in Response to the Report of Ronald Keith Gaddie, dated April 16, 2012.

31. Attached as Exhibit 30 hereto is a true and correct copy of the Affidavit of John E. Merrill, dated July 29, 2011, Dkt. No. 42.

32. Attached as Exhibit 31 hereto is a true and correct copy of Local Law C Maps and Statistics, Exhibit E to the Affidavit of John E. Merrill, Dkt. No. 44.

33. Attached as Exhibit 32 hereto is a true and correct copy of the Expert Report of Dr. Baodong Liu, dated July 12, 2011, Dkt. No. 24.

34. Attached as Exhibit 33 hereto is a true and correct copy of the Declaration of William S. Cooper, dated July 14, 2011, Dkt. No. 25.

35. Attached as Exhibit 34 hereto are true and correct excerpts from the deposition of Wanda Willingham, which was taken on January 30, 2012.

36. Attached as Exhibit 35 hereto are true and correct excerpts from the deposition of Vicente Alfonso, which was taken on March 23, 2012.

37. Attached as Exhibit 36 hereto is a true and correct copy of the Declaration of Joseph Gomez, dated April 29, 2013.

38. Attached as Exhibit 37 hereto is a true and correct copy of the Declaration of Nathan Lebron, dated April 29, 2013.

39. Attached as Exhibit 38 hereto are true and correct excerpts from the deposition of Joseph Gomez, which was taken on March 23, 2012.

40. Attached as Exhibit 39 hereto are true and correct excerpts from the deposition of Samuel Coleman, which was taken on February 1, 2012.

41. Attached as Exhibit 40 hereto is a true and correct copy of the Declaration of Elaine Frazier, dated April 25, 2013.

42. Attached as Exhibit 41 hereto is a true and correct copy of the Declaration of Ladan Alomar, dated April 30, 2013.

43. Attached as Exhibit 42 hereto is a true and correct copy of the Declaration of Corey Ellis, dated April 30, 2013.

44. Attached as Exhibit 43 hereto is a true and correct copy of the Spanish language 2011 reelection campaign literature of Wanda Willingham.

45. Attached as Exhibit 44 hereto is a true and correct copy of the Declaration of Vicente Alfonso, dated April 29, 2013.

46. Attached as Exhibit 45 hereto is a true and correct copy of the Declaration of Mónica M. Arias Miranda, dated April 29, 2013.

47. Attached as Exhibit 46 hereto are true and correct excerpts from the deposition of Aaron Mair, which was taken on April 13, 2012.

48. Attached as Exhibit 47 hereto is a true and correct copy of Baodong (Paul) Liu's Rebuttal Expert Report in Response to the Expert Report of Dr. Ronald Keith Gaddie, dated April 16, 2012.

49. Attached as Exhibit 48 hereto are true and correct excerpts from the deposition of Shawn M. Morse, which was taken on February 3, 2012.

50. Attached as Exhibit 49 is a true and correct copy of the Declaration of Carlos Gonzalez, excluding exhibits, dated July 14, 2011, Dkt. No. 23.

51. Attached as Exhibit 50 hereto is a true and correct copy of Plaintiffs' Objections to Magistrate Judge Homer's Report and Recommendation Regarding the Remedial Redistricting Plan, *Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany*, No. 03-CV-502 (N.D.N.Y. Oct. 1, 2003).

52. Attached as Exhibit 51 hereto is a true and correct copy of John Merrill's Notes on the Redistricting Process.

53. Attached as Exhibit 52 hereto is a true and correct copy of Local Law No. "C" for 2011, which the Albany County Legislature adopted on May 23, 2011, Dkt. No. 1-1.

54. Attached as Exhibit 53 hereto is a true and correct copy of a transcript of the Albany County Legislature's Public Hearing on Local Law C, which took place May 19, 2011.

55. Attached as Exhibit 54 is a true and correct copy of the Declaration of Janis Gonzalez, excluding exhibits, dated July 14, 2011, Dkt. No. 17.

56. Attached as Exhibit 55 hereto are true and correct excerpts from the deposition of Dr. Baodong Liu, which was taken on February 26, 2013.

57. Attached as Exhibit 56 hereto is a true and correct copy of an email from Email from John Merrill to Lucille McKnight, dated May 12, 2011, with Bates numbering Emails000154–57.

58. Attached as Exhibit 57 hereto is a true and correct copy of the Supplemental Expert Report of Dr. Baodong (Paul) Liu, attaching Exhibit 3, dated May 1, 2012.

I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Dated: New York, New York
April 30, 2013

Respectfully submitted,

/s/ Mitchell A. Karlan
Mitchell A. Karlan